

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

THOMAS KEMPVANE,	)	3:10-cv-00535-ECR-VPC
	)	
Plaintiff,	)	
	)	<b><u>MINUTES OF THE COURT</u></b>
v.	)	
	)	
HOWARD SKOLNIK, <i>et al.</i> ,	)	
	)	February 6, 2012
	)	
Defendants.	)	
_____	)	

PRESENT: THE HONORABLE VALERIE P. COOKE, U.S. MAGISTRATE JUDGE

DEPUTY CLERK: LISA MANN REPORTER: NONE APPEARING

COUNSEL FOR PLAINTIFF(S): NONE APPEARING

COUNSEL FOR DEFENDANT(S): NONE APPEARING

**MINUTE ORDER IN CHAMBERS:**

Before the court is defendants' motion for summary judgment (#36). Also before the court are two motions. Each is addressed in turn.

**1. Plaintiff's Motion for Sanctions (#43)**

Plaintiff filed a motion for sanctions pursuant to Federal Rule of Civil Procedure 11 (#43). Defendants opposed (#44) and plaintiff replied (#45). Rule 11(c)(2) includes a "safe harbor" provision, which provides: "The motion must be served [on the opposing party] under Rule 5, but it must not be filed or be presented to the court if the challenged paper, claim, defense, contention, or denial is withdrawn or appropriately corrected within 21 days after service or within another time the court sets." The Ninth Circuit "enforce[s] this safe harbor provision strictly." *Holgate v. Baldwin*, 425 F.3d 671, 678 (9th Cir. 2005).<sup>1</sup> Plaintiff's motion (#43) is **DENIED** because plaintiff failed to serve the motion upon defendants prior to filing it with the court.

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<sup>1</sup> Because plaintiff failed to comply with the procedural requirements of Federal Rule of Civil Procedure 11(c)(2), the court need not reach the substantive concerns at issue in plaintiff's motion for sanctions.

**2. Defendants' Motion to Withdraw Exhibit (#48)**

Defendants move to withdraw exhibit C to their motion for summary judgment (#48). Plaintiff opposed (#50) and defendants have not submitted a reply.<sup>2</sup> Exhibit C contains information regarding federal funds allotted to the Nevada Department of Corrections ("NDOC") from the U.S. Department of Justice, Bureau of Justice Assistance (#36, Ex. C). Because this information is not necessary to the court's analysis of defendants' motion for summary judgment, defendants' motion (#48) is **GRANTED**.

**IT IS SO ORDERED.**

LANCE S. WILSON, CLERK

By: \_\_\_\_\_/s/\_\_\_\_\_

Deputy Clerk

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<sup>2</sup>

Defendants have until February 18, 2012 to file a reply.